

Senate Bill No. 759

Passed the Senate May 20, 2013

Secretary of the Senate

Passed the Assembly August 30, 2013

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 34005 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 759, Nielsen. Firearms: California State Military Museum and Resource Center.

Existing law provides that an officer having custody of any firearm that may be useful to the California National Guard, the Coast Guard Auxiliary, or to any military or naval agency of the federal or state government, may, upon the authority of the legislative body of the city, city and county, or county by which the officer is employed and the approval of the Adjutant General, deliver the firearm to the commanding officer of a unit of the California National Guard, the Coast Guard Auxiliary, or any other military agency of the state or federal government, including the California State Military Museum and Resource Center, in lieu of destruction as otherwise required. Existing law also specifies how firearms donated to the California State Military Museum and Resource Center may be disposed of.

This bill would correct an incorrect reference to the California State Military Museum and Resource Center in those provisions. The bill would authorize donation of firearms to specified branch museums in addition to the California State Military Museum and Resource Center, and would also authorize any state agency, county, municipality, or special purpose district to offer any excess military weapons or equipment, such as historical war equipment like artillery, tanks, or armored vehicles, to those museums.

The people of the State of California do enact as follows:

SECTION 1. Section 34005 of the Penal Code is amended to read:

34005. (a) (1) An officer having custody of any firearm that may be useful to the California National Guard, the Coast Guard Auxiliary, or to any military or naval agency of the federal or state government, including, but not limited to, the California State

Military Museum and Resource Center, located in Sacramento, and at branch museums located at the California National Guard facilities at Camp Roberts, Camp San Luis Obispo, and Los Alamitos Armed Forces Reserve Center, may, upon the authority of the legislative body of the city, city and county, or county by which the officer is employed and the approval of the Adjutant General, deliver the firearm to the commanding officer of a unit of the California National Guard, the Coast Guard Auxiliary, or any other military agency of the state or federal government, in lieu of destruction as required by any of the provisions listed in Section 16580.

(2) Any state agency, county, municipality, or special purpose district may offer any excess military weapons or equipment, such as historical war equipment like artillery, tanks, or armored vehicles, to the California State Military Museum and Resource Center or any branch museum described in paragraph (1).

(3) The officer delivering a firearm pursuant to this subdivision shall take a receipt for it, which contains a complete description of the firearm, and shall keep the receipt on file in his or her office as a public record.

(b) Any law enforcement agency that has custody of any firearms, or any parts of any firearms, which are subject to destruction as required by any of the provisions listed in Section 16580, may, in lieu of destroying the weapons, retain and use any of them as may be useful in carrying out the official duties of the agency. Alternatively, upon approval of a court, the agency may do either of the following:

(1) Release the weapons to any other law enforcement agency for use in carrying out the official duties of that agency.

(2) Turn over to the criminalistics laboratory of the Department of Justice or the criminalistics laboratory of a police department, sheriff's office, or district attorney's office, any weapons that may be useful in carrying out the official duties of the respective agencies.

(c) (1) Any firearm, or part of any firearm, which, rather than being destroyed, is used for official purposes pursuant to this section, shall be destroyed by the agency using the weapon when it is no longer needed by the agency for use in carrying out its official duties.

(2) Firearms or weaponry donated to the California State Military Museum and Resource Center may be disposed of pursuant to Section 179 of the Military and Veterans Code.

(d) (1) Any law enforcement agency that has custody of any firearms, or any parts of any firearms, which are subject to destruction as required by any of the provisions listed in Section 16580, may, in lieu of destroying the firearms, obtain an order from the superior court directing the release of the firearms to the sheriff.

(2) The sheriff shall enter those weapons into the Automated Firearms System (AFS), via the California Law Enforcement Telecommunications System, with a complete description of each weapon, including the make, type, category, caliber, and serial number of the firearms, and the name of the academy receiving the weapon entered into the AFS miscellaneous field.

(3) The sheriff shall then release the firearms to the basic training academy certified by the Commission on Peace Officer Standards and Training, so that the firearms may be used for instructional purposes in the certified courses. All firearms released to an academy shall be under the care, custody, and control of the particular academy.

(4) Any firearm, or part of any firearm, which is not destroyed, and is used for the purposes authorized by this section, shall be returned to the law enforcement agency that had original custody of the firearm when it is no longer needed by the basic training academy, or when the basic training academy is no longer certified by the commission.

(5) When those firearms are returned, the law enforcement agency to which the firearms are returned, shall on the date of the return, enter into the Automated Firearms System (AFS), via the California Law Enforcement Telecommunications System, a complete description of each weapon, including the make, type, category, caliber, and serial number of the firearms, and the name of the entity returning the firearm.

Approved _____, 2013

Governor